

11. PLANNING/PROGRAM OF PROJECTS

BASIC REQUIREMENT (PLANNING)

The grantee must participate in the transportation planning process in accordance with FTA requirements, SAFETEA-LU, and the metropolitan and statewide planning regulations.

BASIC REQUIREMENT (HUMAN SERVICES TRANSPORTATION)

Grantees must participate in a coordinated public transit-human services transportation planning process that identifies the transportation needs of individuals with disabilities, older adults, and people with low incomes; provides strategies for meeting those local needs; and prioritizes transportation services for funding and implementation.

BASIC REQUIREMENT (PROGRAM OF PROJECTS (POP))

Each recipient of a Section 5307 grant shall develop, publish, afford an opportunity for a public hearing on, and submit for approval a POP.

AREAS TO BE EXAMINED

1. ***Metropolitan Planning Process***
2. ***Coordinated Planning Process for Human Services Transportation***
3. ***POP Public Participation Requirements***

REFERENCES

1. [49 USC Chapter 53](#), Federal Transit Laws
2. [23 USC Section 134](#), Federal Aid Highways, "Metropolitan Planning"
3. [23 CFR Part 450](#), "Planning Assistance and Standards"
4. [FTA Circular 9030.1D](#), "Urbanized Area Formula Program: Program Guidance and Application Instructions"
5. [FTA Circular 9050.1](#), "The Job Access and Reverse Commute (JARC) Program"
6. [FTA Circular 9045.1](#), "New Freedom Program Guidance and Application Instructions"

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[NTI Courses](#)

[Questions and Answers on the Section 5310, JARC and New Freedom Programs](#)

QUESTIONS FOR THE REVIEW

Part A. Metropolitan Planning Process

1. *If the grantee is located in a designated Transportation Management Area (TMA) (population 200,000 or more), when was the last Planning Certification Review (PCR) completed by FHWA/FTA? Did the grantee participate in the review? Are there any outstanding corrective actions from the PCR that pertain to the grantee?*

If the grantee is not in a TMA (population under 200,000), are there any outstanding corrective actions from the metropolitan planning or statewide planning findings that pertain to the grantee?

EXPLANATION

FTA and FHWA conduct PCRs of MPOs in TMAs every four years. The PCR process includes input from participants in the planning process, including the grantee. The triennial review verifies the status of corrective actions from the PCR that pertain to the grantee.

In non-TMA areas (population of less than 200,000), FTA and FHWA assess the metropolitan planning processes and make a metropolitan planning finding. All states, at the time of an update to or amendment of the statewide transportation improvement program (STIP), must self-certify that the transportation planning process is being carried out in accordance with all applicable statutes and regulations. Subsequently, FTA and FHWA jointly make a statewide planning finding as the basis for approving the STIP update or amendment. The finding lists all concerns with the performance of planning processes in all urbanized (and non-urbanized) areas throughout the state.

REFERENCE

None

SOURCES OF INFORMATION

During the desk review, the reviewer will determine if the grantee is located in a TMA for planning purposes. The reviewer will look in the planning files and discuss issues with the planners on the regional staff. The reviewer will examine PCR files for the final

report and documentation of follow-up actions, note when the review was completed, what the corrective actions were, and if they pertain to the grantee. The reviewer will ask the planners if there are any metropolitan planning findings or statewide planning findings that pertain to the grantee. At the site visit, the reviewer will ask the grantee about its participation in the PCR and discuss any findings that pertain to the grantee.

DETERMINATION

None

SUGGESTED CORRECTIVE ACTION

None

2. *What is the name of the designated metropolitan planning organization (MPO) for the area?*
3. *Does the grantee have an agreement with the MPO that specifies cooperative procedures for carrying out transportation planning and programming? What is the date of the agreement/document?*
4. *How does the grantee participate in the MPO planning process? Is the grantee a voting or ex officio member of the MPO policy board?*
5. *How does the grantee participate in developing the metropolitan transportation (20-year) plan? How is transit included in the plan?*
6. *How does the grantee participate in developing the transportation improvement program (TIP)?*
7. *How does the grantee participate cooperatively with the MPO in developing financial forecasts that are used in preparing the TIP and the metropolitan transportation plan?*
8. *How does the grantee participate cooperatively with the MPO in*

developing the listing of projects for which funds under 23 U.S.C. or 49 U.S.C. Chapter 53 were obligated in the preceding program year?

EXPLANATION

An MPO is designated for each urbanized area with a population of more than 50,000 individuals (as determined by the Bureau of the Census) to carry out the metropolitan transportation planning process. The planning regulations require the MPO, the state(s), and the public transportation operator(s) to cooperatively determine their mutual responsibilities in carrying out the metropolitan transportation planning process. These responsibilities shall be clearly identified in written agreements among the MPO, the state(s), and the public transportation operator(s) serving the metropolitan planning area. Written agreements are required to address at least: 1) the grantee's responsibilities, 2) the development and sharing of information for financial plans and 3) the development of the annual listing of obligated projects.

The MPO is composed of local elected officials, appropriate state officials, and officials of public agencies that operate major modes of transportation in the region. Typically, the MPO comprises a policy committee of local elected officials and a technical advisory committee of the senior transportation planning staff of the participating agencies. As the provider of public transportation, the grantee should have a meaningful role in the planning process.

The MPO, the state(s), and the public transportation operator(s) shall validate data utilized in preparing other existing modal plans for providing input to the metropolitan transportation plan and shall cooperatively develop estimates of funds that will be available to support metropolitan transportation plan implementation.

The MPO, in cooperation with the state(s) and any affected public transportation operator(s), shall develop a TIP for the metropolitan planning area. The TIP shall include capital and non-capital surface transportation projects (or phases of projects) within the boundaries of the metropolitan planning area proposed for funding under 23 U.S.C. and 49 U.S.C. Chapter 53, including transportation enhancements, Federal Lands Highway Program projects, safety projects included in the State's Strategic Highway Safety Plan, trails projects, pedestrian walkways, and bicycle facilities.

Any financial or travel demand forecasts related to transit services that appear in the TIP and the metropolitan transportation plan need to be developed cooperatively by the MPO and the transit operator.

Annually no later than 90 calendar days following the end of the program year, the state, public transportation operator(s), and the MPO shall cooperatively develop a listing of projects (including investments in pedestrian walkways and bicycle transportation facilities) for which funds under 23 U.S.C. or 49 U.S.C. Chapter 53 were obligated in the preceding program year.

REFERENCE

23 USC 134
49 USC 5303
49 USC 5304
23 CFR 450.314, 322, and 324

SOURCES OF INFORMATION

At the desk review, the reviewer will check the planning files for a copy of a current agreement. The reviewer will obtain this information from the grantee if it is not available in the regional office.

DETERMINATION

The grantee is deficient if it does not have an agreement with the MPO. The grantee is deficient if the agreement does not specify the cooperative procedures for carrying out transportation planning and programming, including participation in the development of the metropolitan plan, TIP, financial forecasts, or the listing of obligated projects.

SUGGESTED CORRECTIVE ACTION

The grantee will be directed to provide the FTA regional office with a schedule for providing a fully executed agreement that specifies the cooperative procedures for carrying out transportation planning and programming.

9. *Since the last review, has the grantee had any complaints or lawsuits with respect to transit operator involvement in the metropolitan planning process? If yes, what was the nature of each complaint/lawsuit? How were these complaints/lawsuits resolved? Are any pending?*

EXPLANATION

The existence of complaints and lawsuits can indicate shortcomings in the metropolitan transportation planning process.

REFERENCE

None

SOURCES OF INFORMATION

The reviewer will obtain this information during the desk review from FTA staff that works with the

grantee or from the regional counsel. The reviewer will obtain additional information from the grantee at the site visit and notify the FTA regional office of any complaints or lawsuits identified during the site visit.

DETERMINATION

None

SUGGESTED CORRECTIVE ACTION

None

Part B. Coordinated Planning Process for Human Services Transportation

10. *If the grantee is a designated recipient of Section 5316 and/or Section 5317 funds, does the grantee:*

- a. *Document procedures for administering these programs in a Program Management Plan?*
- b. *Derive projects from a coordinated public transit-human services transportation plan developed through a process that consisted of participation from public, private, and non-profit transportation providers, human services providers, and members of the public?*
- c. *Notify eligible local entities of funding availability and project selection criteria?*
- d. *Conduct a competitive selection process?*
- e. *Allocate funds to subrecipients on a fair and equitable basis?*
- f. *Award funds only to eligible applicants?*
- g. *Publish a list of selected projects?*

EXPLANATION

Section 5316 funds are available for transportation projects that support the development and maintenance of transportation services designed to

transport low income individuals to and from jobs and activities related to their employment and to support reverse commute projects. FTA C 9050.1 Chapter III Section 11 lists potential eligible projects.

Section 5317 funds are available for transportation projects that support new public transportation services beyond those required by the ADA and new public transportation alternatives beyond those required by the ADA designed to assist individuals with disabilities with accessing transportation service, including transportation to and from jobs and employment support services. FTA C 9045.1 Chapter III Section 11 lists potential eligible projects.

The grantee must document its procedures for administering the program(s), including eligibility requirements and the competitive selection process, in a Program Management Plan.

Federal Transit Law, as amended by SAFETEA-LU, requires that projects funded with Section 5310, 5316, or 5317 funds be derived from a locally developed, coordinated public transit-human service transportation plan (coordinated plan). A coordinated plan should maximize the programs' collective coverage by minimizing duplication of services. Further, a coordinated plan should be developed through a process that includes representatives of public, private, and non-profit transportation and human services providers, and participation by the public. In particular, it is important for the designated recipient of these funds to provide evidence of outreach to local entities for participation in the planning process.

The grantee shall publicly advertise the availability of funds and selection criteria in formats and forums appropriate to the potential subrecipients. Potential mechanisms include websites and newspaper notices.

The grantee shall conduct a competitive selection process that is separate from, but coordinated with, the planning process. The competition allocates funding to subrecipients to implement projects. Grantees may not allocate/suballocate funds without conducting a competitive selection process covering the large urbanized areas. The process should be transparent. The process may be conducted annually or at intervals not to exceed three years. Even if the process is conducted annually, the grantee may select projects that will be implemented over multiple years.

The grantee must demonstrate that the competition was open and transparent and that funds were distributed fairly and equitably. Fair and equitable distribution refers to equal access to, and equal treatment by, a fair and open competitive process.

The result may not be an “equal” allocation of resources among projects or communities.

There are three categories of eligible subrecipients of Section 5316 and 5317 funds: private non-profit organizations, state or local governmental authorities, and operators of public transportation services, including private operators of public transportation services.

The grantee shall publish a list of selected projects following the competitive selection process in formats and forums appropriate to potential subrecipients. Many grantees publish the list of selected projects on their websites.

REFERENCE

[Federal Transit Laws, Title 49, United States Code, Chapter 53](#)

[Federal Register](#) notice published March 29, 2007 (72 FR 14851)

[FTA C 9045.1, Ch. II, Section 4.a-i](#)

[FTA C 9050.1, Ch. II, Section 4.a-i](#)

SOURCES OF INFORMATION

During the desk review, the reviewer will examine the Program Management Plan (and coordinated plan if available) on file with the regional office and list of funded projects in TEAM-Web. The reviewer will obtain and review the public notification of availability of funding and published list of selected projects. During the site visit, the reviewer will discuss the competitive selection process.

DETERMINATION

The grantee is deficient if it does not have a Program Management Plan(s) for administering the program, does not derive projects from a coordinated public transit-human services transportation plan, does not notify eligible entities of funding availability and project selection criteria, conduct a competitive selection process, allocate funds to subrecipients on a fair and equitable basis, or publish a list of selected projects. It is deficient if it awards funds to ineligible applicants.

SUGGESTED CORRECTIVE ACTION

The grantee will be directed to provide the FTA regional office an updated Program Management Plan incorporating any missing elements from the Section 5316 and 5317 process. The grantee will be directed to provide the FTA regional office a plan with milestones for correcting any deficient part of the process.

11. *If the grantee is not the designated recipient, direct recipient, or subrecipient of Section 5316 or 5317 funds, is the grantee participating in*

the coordinated public transit-human service transportation planning process?

EXPLANATION

FTA's Section 5316 and 5317 circulars note that recipients of Section 5307 and Section 5311 assistance are the “public transit” in the public transit-human services transportation plan and their participation is assumed and expected. Further, Section 5307(c)(5) requires that, “Each recipient of a grant shall ensure that the proposed program of projects (POP) provides for the coordination of public transportation services ... with transportation services assisted from other United States Government sources.”

REFERENCE

[FTA C 9045.1, Ch. V, Section 4.d](#)

[FTA C 9050.1, Ch. V, Section 4.d](#)

SOURCES OF INFORMATION

During the site visit, the reviewer will request information that demonstrates that the grantee is participating in the coordinated planning process. Participation can include attendance at meetings and provision of information to the designated recipient of Section 5316 or 5317 funds or the MPO.

DETERMINATION

The grantee is deficient if it has not participated in, or does not have plans to participate in, the coordinated public transit-human services transportation planning process.

SUGGESTED CORRECTIVE ACTION

The grantee will be directed to submit to the FTA regional office documentation that it has contacted the designated recipient of Section 5316 and 5317 funds to notify it of its intent to participate in the development of future coordination plans.

Part C. Public Participation Requirements

12. *Does the grantee rely on the MPO's public participation process to satisfy its public participation requirements for the Program of Projects (POP)?*

If yes:

- a. *Does the MPO have an adopted public participation plan? What is the date of the document?*

b. *Does the plan clearly state that the MPO's public participation process satisfies the grantee's public participation requirements for the POP?*

c. *Does the public notice for the TIP state that public notice of public involvement activities and time established for public review of and comments on the TIP will satisfy POP requirements?*

If no:

d. *How does the grantee develop proposed POPs in consultation with interested parties, including private transportation providers?*

e. *How does the grantee ensure that proposed POPs provide for coordination of mass transportation services assisted by other Federal sources?*

f. *Does the grantee make available to the public information on amounts available to the recipient under Section 5307 and the POPs it proposes to undertake?*

g. *Are proposed POPs published in a manner that affords citizens, private transportation providers, and local elected officials an opportunity to examine their content and to submit comments on the proposed program and the performance of the recipient?*

h. *Is an opportunity for a public hearing provided?*

i. *Were comments or complaints filed as a result of the publication of the POPs? How were such comments considered in preparing the final POPs?*

j. *Are final POPs made available to the public?*

EXPLANATION

Both the planning regulations and Section 5307 require public participation. The planning regulations require that the metropolitan transportation planning process include a proactive participation plan that: provides complete information, timely public notice, and reasonable public access to key decisions and supports early and continuing involvement of the public in developing plans and TIPs. (The grantee's projects must be programmed in the TIP to be eligible for funding.) Section 5307 grantees also have specific requirements for public participation related to the POP. POP public participation requirements do not apply to funds flexed into a Section 5307 grant.

FTA allows a grantee to rely on the locally adopted public participation requirements for the TIP in lieu of the process required in the development of the POP if the grantee has coordinated with the MPO and ensured that the public is aware that the TIP development process is being used to satisfy the POP public participation requirements. To comply with the latter requirement, the MPO's public participation plan should state that the MPO's public participation process satisfies the grantee's public participation process for the POP and the public notice for the TIP must have an explicit statement that public notice of public involvement activities and time established for public review of and comments on the TIP will satisfy the POP requirements.

If the grantee relies on its own process to satisfy POP public participation requirements, it must:

- Develop a proposed POP in consultation with interested parties, including private transportation providers. The grantee may rely on the MPO to assist in this process. A transportation advisory committee of the MPO may be informed or used as a reviewer of the POP. Private providers should be involved throughout this process.
- Ensure that the proposed POP provides for the coordination of Section 5307 public transportation projects with transportation projects assisted with other Federal sources. Coordination may occur at many levels, from simple information sharing to total consolidation of services. Participation in the public transportation-human services planning process satisfies this requirement.
- Make available to the public information concerning the amount of funds available under the Section 5307 Program and the POP that the recipient proposes to undertake with such funds.

- Publish the proposed POP in sufficient detail and in such a manner as to afford affected citizens, private transportation providers, and, as appropriate, local elected officials, reasonable and adequate opportunity to examine the proposed program and to submit comments on it and on the performance of the grantee. The public notice is published in the general circulation newspaper in the service area of the grantee and should indicate where citizens can examine the proposed program and budget in detail and submit comments on the proposed program and the performance of the grantee. If the service area includes a significant number of persons with limited English proficiency, the grantee should distribute the notice to these populations. (See the Title VI section of this guide.)
- Provide an opportunity for a public hearing to obtain the views of citizens on the proposed POP. Most grantees include in the public notice an announcement that the proposed POP is available for review and that, if requested, a public hearing will be held. Some local laws or grantee policies make the public hearing mandatory.
- Consider comments and views received, including those of private transportation providers, in preparing the final POP.
- Make the final POP available to the public. If the proposed POP is not amended, including a statement that the proposed program will be the final program, unless amended, satisfies the requirements regarding the final POP.

REFERENCE

23 CFR 450.314, 316, 322 and 324
FTA C 9030.1D, Ch. IV, Section 6

SOURCES OF INFORMATION

At the site visit, the reviewer will discuss how the grantee handles the public participation requirements. If the grantee relies on the public involvement process for the TIP, the reviewer will examine the MPO's public participation plan to ensure that it states the public involvement process for the TIP is used to satisfy the grantee's public participation process for the POP. The reviewer will examine the TIP public notices to ensure that they state that public notice of public involvement activities and time established for public review of and comments on the TIP will satisfy the POP requirements. The grantee may need to obtain the documentation from the MPO in preparation for the site visit. It is recommended that a representative of the MPO participate in the discussion during the site visit.

If the grantee is publishing a separate notice of its POP, the reviewer will examine public notices for the

past three years. The reviewer will ask the grantee to describe the consultative process and how coordination was ensured as the POP was developed. The reviewer will examine written comments received by the grantee, transcripts of public hearings, and internal reports that address the comments.

DETERMINATION

The grantee is deficient if it relies on the public involvement process for the TIP to meet public involvement requirements for the POP and:

- The MPO's public participation plan does not state that the MPO's public participation process is used to satisfy the grantee's public participation process for the POP.
- The public notices for the TIP do not have an explicit statement that public notice of public involvement activities and time established for public review and comments on the TIP will satisfy the POP requirements.

The grantee is deficient if it is responsible for publishing the POP, and:

- The grantee has failed to publish a POP in an appropriate local publication, has failed to provide sufficient detail in the announcement, has failed to offer an opportunity for a public hearing, or has failed to communicate to a significant population of non-English speaking individuals.
- The proposed POP does not contain a statement that the proposed program also will be the final program unless amended and a final notice is not published.
- The grantee does not have a consultative process (e.g., does not attempt to solicit opinions of others, does not mail a notice of its plans for developing the POP to private providers, does not have an ongoing public participation process, etc.) or there is no evidence that a good faith effort toward service coordination was made as the POP was being developed.

SUGGESTED CORRECTIVE ACTION

If the grantee is relying on the MPO for public participation activities, the grantee will be directed to work with the MPO to submit to the FTA regional office a revised public participation plan for the TIP and/or the next published public notice for the TIP with the required language.

If the grantee publishes a separate POP, the grantee will be directed to make appropriate changes, e.g.,

change the wording of the announcement to indicate where the POP is available for review or to include sufficient detail describing the POP. Since the publication of the POP is an annual event, the timetable of the corrective action will depend upon the

next publication date. The grantee will be directed to make the appropriate changes and forward a copy of the public notice, or public notice language to the FTA regional office.